

UNITED STATES DISTRICT COURT  
for the

Western District of North Carolina

United States of America )  
v. )  
KENNETH TYRONE GARNER ) Case No: 5:00CR00038-002  
Date of Previous Judgment: December 13, 2001 ) USM No: 16360-058  
(Use Date of Last Amended Judgment if Applicable) ) Samuel B. Winthrop  
 ) Defendant's Attorney

**Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)**

Upon motion of  the defendant  the Director of the Bureau of Prisons  the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

**IT IS ORDERED** that the motion is:

## **I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)**

Previous Offense Level: 31 Amended Offense Level: 29

Criminal History Category: III      Criminal History Category: III

Previous Guideline Range: 240 to 240 months Amended Guideline Range: 240 to 240 months

## II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

The reduced sentence is within the amended guideline range.

The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at

of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than

■ Other (explain): No reduction as the guideline range remains unchanged due to the mandatory statutory minimum.

- Other (explain): No reduction as the guideline range remains unchanged due to the mandatory statutory minimum sentence.

### III. ADDITIONAL COMMENTS

Except as provided above, all provisions of the judgment dated December 13, 2001 shall remain in effect.

## IT IS SO ORDERED.

Order Date: March 3, 2009

Effective Date: \_\_\_\_\_  
(if different from order date)

William L. Voorhees

Richard L. Voorhees  
United States District Judge

